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Attorneys for Petitioner James E. Simmons

BEFORE THE CALIFORNIA STATE
WATER RESOURCES CONTROL BOARD

In Re:)	PETITION FOR REVIEW
)	(Requested to be held in Abeyance)
Virginia L. Drake, Trustee of the Drake)	
Revocable Trust, James E. Simmons,)	California Regional Water Quality Control
Darwin H. and Nina R. Simmons, Trustees)	Board–Central Valley Region, May 4, 2006
of the Simmons Family Trust, and City of)	Hearing, Administrative Civil Liability
Chico,)	Order No. R5-2005-0524, as amended
_____)	

TO ALL PARTIES AND THE ATTORNEYS OF RECORD IN THIS ACTION:

The following is a Petition for Review, filed on behalf of James E. Simmons, to the State Water Resources Control Board for review of the California Regional Water Quality Control Board–Central Valley Region’s adoption of Administrative Civil Liability Order No. R5-2005-0524, as amended.

1. **Petitioner’s Name and Address** (23 Cal. Code Regs. §2050(a)(1))

James E. Simmons
P.O. Box 3731
Chico, California 95927

2. **Specific Action to be Reviewed** (23 Cal. Code Regs. §2050(a)(2))

Issuance of Administrative Civil Liability Order No. R5-2005-0524, as amended.

3. **Date of Regional Board Action** (23 Cal. Code Regs. §2050(a)(3))

The Regional Water Quality Control Board adopted the above-referenced Administrative Civil Liability Order No. R5-2005-0524, as amended, on May 4, 2006.

4. **Statement of Reasons** (23 Cal. Code Regs. §2050(a)(4))

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to supplement this Petition for Review with submission of a statement of reasons.

5. **Manner in Which Petitioner is Aggrieved** (23 Cal. Code Regs. §2050(a)(5))

See No. 4 above.

6. **Specific Action Requested** (23 Cal. Code Regs. §2050(a)(6))

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to request review.

7. **Statement of Points and Authorities** (23 Cal. Code Regs. §2050(a)(7))

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to submit a statement of points and authorities.

8. **Regional Board Notification** (23 Cal. Code Regs. §2050(a)(8))

As set forth in the attached Exhibit “A,” a copy of this petition has been sent to the Regional Water Quality Control Board and the other dischargers named in the order.

9. **Statement of Substantive Issues and Objections** (23 Cal. Code Regs. §2050(a)(9))

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to assert the substantive issues and objections raised prior to the time of the hearing.

10. **List of Persons**

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to provide a list of persons known to have an interest in the

subject matter of the petition.

11. **Record Request**

Petitioner requests that the petition be held in abeyance pursuant to 23 Cal. Code Regs. §2050.5 and reserves the right to request that the Regional Water Quality Control Board prepare the record.

PETITIONER HEREBY REQUESTS that this matter be held in abeyance until further notice. Petitioner reserves the right to request a hearing to present evidence available that was not considered by the Regional Board or was improperly excluded or otherwise not considered.

DATED: May 25, 2006.

Respectfully submitted,

CARR, KENNEDY, PETERSON & FROST

By /s/ Randall C. Nelson
Randall C. Nelson, Attorneys for
Petitioner James E. Simmons

1 **EXHIBIT A**

2
3
4
5 May 25, 2006

6
7 Pamela Creedon
8 Executive Officer
9 Regional Water Quality Control Board
10 Central Valley Region
11 11020 Sun Center Drive, #200
12 Rancho Cordova, CA 95670-6114

13
14 Re: Humboldt Road Burn Dump Area 7
15 Administrative Civil Liability Order No. R5-2005-0524, As Amended

16 Dear Ms. Creedon:

17
18 I am writing to you on behalf of James E. Simmons, petitioner of the above-referenced
19 Order, to provide a copy of the petition for review which has been filed on James E. Simmons'
20 behalf. As you will note, this petition has been filed with the request that it be held in abeyance.

21
22 Very truly yours,

23
24 RANDALL C. NELSON

25 RCN:es

26 Enclosure

cc: Client (via email)
Jeffory J. Scharff (via email)
Mac Goldsberry, II, Esq. (via email)
Dave Frank, Esq. (via email)
Frances McChesney, Esq. (via email)
David Boyers, Esq. (via email)
Elizabeth Miller Jennings, Esq. (via email)

PROOF OF SERVICE

CASE NAME : In Re Virginia L. Drake, Trustee of the Drake Revocable Trust,
James E. Simmons, Darwin H. and Nina R. Simmons, Trustees
of the Simmons Family Trust, and City of Chico

COURT :
CASE NO. :

I, the undersigned, declare:

I am over the age of eighteen years and not a party to the cause. I am employed by the law firm of Carr, Kennedy, Peterson & Frost, 420 Redcliff Dr., P.O. Box 492396, Redding, California 96049-2396.

On this date, I served the document described as: **PETITION FOR REVIEW (Requested to be held in Abeyance) California Regional Water Quality Control Board–Central Valley Region, May 4, 2006 Hearing, Administrative Civil Liability Order No. R5-2005-0524, as amended**, on the interested parties in this matter by placing a true copy thereof in a sealed envelope addressed as follows:

Jeffory J. Scharff
Attorney at Law
2625 Fair Oaks Boulevard, Suite 7
Sacramento, California 95864

Attorneys for Virginia L. Drake, Trustee
of the Drake Revocable Trust

David R. Frank, City Attorney
City of Chico
P.O. Box 3420
Chico, California 95927-3420

Attorney for City of Chico

Francis M. “Mac” Goldsberry, II, Esq.
Goldsberry, Freeman & Guzman, LLP
777 12th Street, Suite 250
Sacramento, CA 95814

1 Frances McChesney, Esq.
2 State Water Resources Control Board
3 P. O. Box 100
4 Sacramento, CA 95812-0100

5 David Boyers, Esq.
6 State Water Resources Control Board
7 P. O. Box 100
8 Sacramento, CA 95812-0100

9 Service of the above document was effectuated by the following means of service:

10 X **By First Class Mail** -- I am readily familiar with this firm's practice for
11 collection and processing of correspondence for mailing with the United States
12 Postal Service. It is deposited with the United States Postal Service in the
13 ordinary course of business on the same day it is processed for mailing. I
14 caused such envelope(s) to be deposited in the mail at Redding, California. The
15 envelope(s) was/were mailed with postage thereon fully prepaid.

16 **By Personal Service** -- By personally delivering a true copy thereof in a sealed
17 envelope(s).

18 **By Overnight Delivery Service** -- I caused such envelope(s) to be deposited in
19 a box or other facility regularly maintained by the express service carrier or
20 delivered to an authorized courier or driver authorized by the express service
21 carrier to receive documents. The envelope(s) was/were deposited with the
22 express service carrier with delivery fees paid or provided for.

23 **Facsimile Transmission** -- I served the documents in this matter via facsimile
24 transmission.

25 **State Court** -- I declare under penalty of perjury under the laws of the State of
26 California that the foregoing is true and correct and that service was made under
the direction of an active member of the State Bar of California and who is not
a party to the cause.

Federal Court -- I declare under penalty of perjury that the foregoing is true
and correct and that service was made under the direction of a member of the
bar of this Court who is admitted to practice and is not a party to the cause.

Executed this 25th day of May, 2006, at Redding, California.

/s/ Elaine Sanders

ELAINE SANDERS